

Proposed technical amendment:

SECTION #. G.S. 7A-304 reads as rewritten:

"§ 7A-304. Costs in criminal actions.

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this ~~section~~ subsection. No court may waive or remit all or part of any court fines or costs without providing notice and opportunity to be heard by all government entities directly affected. The court shall provide notice to the government entities directly affected of (i) the date and time of the hearing and (ii) the right to be heard and make an objection to the remission or waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be made to the government entities affected by first-class mail to the address provided for receipt of court costs paid pursuant to the order. ~~[The costs are listed below:]~~ [The costs are listed below:]

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
- (2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse

the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

- (2a) For the upgrade, maintenance, and operation of the judicial and county courthouse telecommunications and data connectivity, the sum of four dollars (\$4.00), to be credited to the Court Information Technology Fund.
- (2b) Repealed by Session Laws 2015-241, s. 18A.11, effective July 1, 2015.
- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e).
- (3a) For the supplemental pension benefits of sheriffs, the sum of one dollar twenty-five cents (\$1.25) to be remitted to the Department of Justice and administered under the provisions of Article 12H of Chapter 143 of the General Statutes.
- (3b) For the services, staffing, and operations of the Criminal Justice Education and Standards Commission, the sum of two dollars (\$2.00) to be remitted to the Department of Justice.
- (4) For support of the General Court of Justice, the sum of one hundred forty-seven dollars and fifty cents (\$147.50) in the district court, including cases before a magistrate, and the sum of one hundred fifty-four dollars and fifty cents (\$154.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.
- (4a) For support of the General Court of Justice, the sum of ten dollars (\$10.00) for all offenses arising under Chapter 20 of the General Statutes, to be remitted to the State Treasurer.
- (4b) For additional support of the General Court of Justice, the sum of fifty dollars (\$50.00) for all offenses arising under Chapter 20 of the General Statutes and resulting in a conviction of an improper equipment offense, to be remitted to the State Treasurer.

- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.
- (6) For support of the General Court of Justice, the sum of two hundred dollars (\$200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146, and the sum of fifty dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within 40 days of the date specified in the court's judgment. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer.
- (7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the Laboratory. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent.
- (8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.
- (8a) For the services of any private hospital performing toxicological testing under contract with a prosecutorial district, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred

dollars (\$600.00) to be remitted to the State Treasurer for the support of the General Court of Justice. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed testing of bodily fluids of the defendant for the presence of alcohol or controlled substances. The costs shall be assessed only if the court finds that the work performed by the local hospital is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (7) of this subsection.

- (9) For the support and services of the State DNA Database and DNA Databank, the sum of two dollars (\$2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.
- (9a) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice to be used for laboratory purposes. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed digital forensics, including the seizure, forensic imaging, and acquisition and analysis of digital media.
- (9b) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local law enforcement unit to be used for laboratory purposes. The cost shall be assessed only in (i) cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed digital forensics, including the seizure, forensic imaging, and acquisition and analysis of digital media, and (ii) if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory under subdivision (9a) of this subsection.
- (10) For support of the General Court of Justice, the sum of one hundred dollars (\$100.00) is payable by a defendant convicted under G.S. 20-138.1 or G.S. 20-138.2, for a second or subsequent conviction under G.S. 20-138.2A, or for a second or subsequent conviction under G.S. 20-138.2B, to be remitted to the State Treasurer. This fee shall be in addition to the fee required by subdivision (4a) of this subsection.
- (11) For the services of an expert witness employed by the North Carolina State Crime Laboratory who completes a chemical analysis pursuant to G.S. 20-139.1, a forensic analysis pursuant to G.S. 8-58.20, or a digital

forensics analysis and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the State Crime Laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (7) or (9a) of this subsection.

- (12) For the services of an expert witness employed by a crime laboratory operated by a local government or group of local governments who completes a chemical analysis pursuant to G.S. 20-139.1, a forensic analysis pursuant to G.S. 8-58.20, or a digital forensics analysis and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for the local law enforcement laboratory. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical or forensic analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8) or (9b) of this subsection.

- (13) For the services of an expert witness employed by a private hospital performing toxicological testing under contract with a prosecutorial district who completes a chemical analysis pursuant to G.S. 20-139.1 and provides testimony about that analysis in a defendant's trial, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the State Treasurer for the support of the General Court of Justice. This cost shall be assessed only in cases in which the expert witness provides testimony about the chemical analysis in the defendant's trial and shall be in addition to any cost assessed under subdivision (8a) of this subsection.

(a1) Repealed by Session Laws 1997-475, s. 4.1.

(a2) The Administrative Office of the Courts shall report on October 1, 2018, and annually thereafter, to the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation of the notice of waiver of costs to the government entities directly affected as required by subsection (a) of this section.

(b) On appeal, costs are cumulative, and costs assessed before a magistrate shall be added to costs assessed in the district court, and costs assessed in the district court shall be added to costs assessed in the superior court, except that the fee for the Law-Enforcement Officers' Benefit and Retirement Fund and the Sheriffs' Supplemental Pension Fund and the fee for pretrial release services shall be assessed only once in each case. No superior court costs shall be assessed against a defendant who gives notice of appeal from the district court but withdraws it prior to the expiration of the 10-day period for entering notice of

appeal. When a case is reversed on appeal, the defendant shall not be liable for costs, and the State shall be liable for the cost of printing records and briefs in the Appellate Division.

(c) Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-50.1(a), jail fees and cost of necessary trial transcripts shall be assessed as provided by law in addition to other costs set out in this section. Nothing in this section shall limit the power or discretion of the judge in imposing fines or forfeitures or ordering restitution.

(d) (1) In any criminal case in which the liability for costs, fines, restitution, attorneys' fees, or any other lawful charge has been finally determined, the clerk of superior court shall, unless otherwise ordered by the presiding judge, disburse ~~such~~ the funds when paid in accordance with the following priorities:

- a. Sums in restitution to the victim entitled thereto;
- b. Costs due the county;
- c. Costs due the city;
- d. Fines to the county school fund;
- e. Sums in restitution prorated among the persons other than the victim entitled thereto;
- f. Costs due the State;
- g. Attorney's fees, including appointment fees assessed pursuant to G.S. 7A-455.1.

(2) Sums in restitution received by the clerk of superior court shall be disbursed when:

- a. Complete restitution has been received; or
- b. When, in the opinion of the clerk, additional payments in restriction will not be collected; or
- c. Upon the request of the person or persons entitled thereto; and
- d. In any event, at least once each calendar year.

(e) Unless otherwise provided by law, the costs assessed pursuant to this section for criminal actions disposed of in the district court are also applicable to infractions disposed of in the district court. The costs assessed in superior court for criminal actions appealed from district court to superior court are also applicable to infractions appealed to superior court. If an infraction is disposed of in the superior court pursuant to G.S. 7A-271(d), costs applicable to the original charge are applicable to the infraction.

(f) The court may allow a defendant owing monetary obligations under this section to either make payment in full when costs are assessed or make payment on an installment plan arranged with the court. Defendants making use of an installment plan shall pay a onetime setup fee of twenty dollars (\$20.00) to cover the additional costs to the court of receiving and disbursing installment payments. Fees collected under this subsection shall be remitted to the State Treasurer for support of the General Court of Justice.

(g) Changes to the costs or fees in this section apply to costs or fees assessed or collected on or after the effective date of the change. However, in misdemeanor or infraction cases disposed of on or after the effective date by written appearance, waiver of trial or hearing, or plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), and within the time limit imposed by ~~G.S. 7A-304(a)(6)~~, subdivision (a)(6) of this section, in which the citation or other criminal process was issued before the

effective date, the costs or fees shall be the lesser of those specified in this section as amended, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs or fees are specified in that notice." (1965, c. 310, s. 1; 1967, c. 601, s. 2; c. 691, ss. 27-29; c. 1049, s. 5; 1969, c. 1013, s. 3; c. 1190, ss. 28, 29; 1971, c. 377, ss. 19-21; c. 1129; 1973, c. 47, s. 2; 1975, c. 558, ss. 1, 2; 1975, 2nd Sess., c. 980, s. 1; 1979, c. 576, s. 3; 1981, c. 369; c. 691, s. 1; c. 896, s. 2; c. 959, s. 1; 1983, c. 713, ss. 2, 3; 1983 (Reg. Sess., 1984), c. 1034, s. 249; 1985, c. 479, s. 196(a); c. 729, ss. 2-4; c. 764, s. 17; 1986, Ex. Sess., c. 5; 1985 (Reg. Sess., 1986), c. 852, s. 17; c. 1015, s. 1; 1989, c. 664, ss. 1, 2; c. 786, s. 1; 1989 (Reg. Sess., 1990), c. 1044, s. 1; 1991, c. 742, s. 15(a); 1991 (Reg. Sess., 1992), c. 811, s. 1; 1993, c. 313, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 22.13(a); 1997-475, s. 4.1; 1998-212, ss. 19.4(k), 29A.12(a); 2000-109, s. 4(a); 2000-144, s. 2; 2001-424, s. 22.14(a); 2002-126, ss. 29A.4(a), 29A.8(a), 29A.9(b); 2003-284, s. 30.19B(a); 2004-186, s. 4.4; 2005-250, s. 1; 2005-276, ss. 43.1(a), 29.30(b); 2005-363, s. 1; 2007-323, s. 30.8(a); 2008-107, s. 29.8(a); 2008-118, s. 2.9(a); 2009-451, s. 15.20(a), (b), (c); 2009-516, s. 1; 2009-575, s. 13A; 2010-31, s. 15.5(a); 2010-123, s. 6.1; 2010-147, s. 7.1; 2011-19, s. 5; 2011-145, ss. 15.10(a), 19.1(h), 31.23(a), 31.23B, 31.26(b), (c), 31.26A; 2011-191, s. 4; 2011-192, s. 7(n), (o); 2011-326, s. 2; 2011-391, ss. 63(a), (b), 66; 2012-142, ss. 16.5(b), 16.6(b); 2013-360, ss. 17.6(g), 18B.18(a), 18B.19(a); 2014-100, s. 18B.14(a); 2015-241, ss. 18A.11, 18A.23(b); 2015-247, s. 1(a); 2017-57, ss. 18B.5(a), 18B.6(a), 18B.10(a); 2018-5, s. 18B.1.)

Explanation:

The proposed amendments:

- In subsection (a), (i) correct "section" to "subsection" because the subdivisions are subdivisions of subsection (a) rather than of the entire section; (ii) provide missing introductory language for the list.
- In subsection (d), update "such" (legalese) to "the";
- In subsection (g), correct the form of the self-citation.